

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF STEVE AND) APPEAL NO. 07-A-2046
HELEN MARINAC from the decision of the Board of) FINAL DECISION
Equalization of Custer County for tax year 2007.) AND ORDER

AGRICULTURAL EXEMPTION APPEAL

THIS MATTER came on for hearing November 28, 2007, in Challis, Idaho before Board Member David E. Kinghorn. Board Members Lyle R. Cobbs and Linda S. Pike participated in this decision. Appellant Steve and Helen Marinac appeared. Assessor Christine James appeared for Respondent Custer County. This appeal is taken from a decision of the Custer County Board of Equalization denying an agricultural exemption for property described as Parcel No. RP 07N24E331400 A.

The issue on appeal is the whether subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-604 - the agricultural exemption.

The decision of the Custer County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$61,800. Appellant requests the land value be reduced to \$3,000.

The subject property is an unimproved 7.904 acre rural parcel. The property was assessed as Rural Residential and valued accordingly.

Appellant argued subject was being used for grazing cattle and should thus be granted an agricultural exemption under Idaho Code § 63-604. Appellant noted a lease agreement for the grazing of several head of cattle had been executed on June 25, 2007. The agreement was signed by Appellant as lessor and Mr. Bill Hardy as lessee. Also submitted were two receipts for fencing material procured by Appellant. One invoice was dated July 2, 2007 and the other

receipt had no date. Appellant built a fence on subject prior to cattle being released on the land.

If subject does not qualify for an agricultural exemption, Appellant contended the value should be reduced because of easements that cross subject. Also mentioned was a steep hill on a part of subject, which rendered that particular portion of the parcel unbuildable.

Respondent first noted an attempt was made to contact Appellant about subject's use. A letter was sent requesting information to determine if subject qualified for an agricultural exemption. The letter indicated a response was needed by April 15, 2007. No response was received so Respondent denied subject's agricultural exemption.

Also referenced was the agricultural exemption form completed by Appellant, dated June 24, 2007. Respondent pointed out the lease agreement between Appellant and Mr. Hardy was dated June 25, 2007, which was one day after the application was filed. This inconsistency further indicated to Respondent subject did not qualify for the requested exemption.

Respondent acknowledged a fence currently sits on subject and did not dispute cattle were grazing on the property during the summer of 2007. Respondent stated the exemption would likely be granted for the 2008 tax year, however, the requirements were not met for the 2007 tax year.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to determine whether subject qualifies for an agricultural exemption. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The issue on appeal here is whether subject qualifies for an agricultural exemption. Idaho Code § 63-604 in pertinent part provides;

(1) For property tax purposes, land which is actively devoted to agricultural shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

(iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise, or is lease by the owner to a bona fide lessee for grazing purposes:

A lease agreement dated June 25, 2007, between Appellant (lessor) and Mr. Bill Hardy (lessee) was submitted into evidence. The agreement provided for the grazing of several head of cattle at a rate of \$50 per cow.

Appellant also submitted two (2) invoices for fencing supplies. One invoice was not dated, however, the other invoice showed a date of July 2, 2007. Appellant testified a fence was built on subject at approximately the same date indicated on the invoice. Cattle were subsequently placed on subject. Appellant argued the above factors should qualify subject for an agricultural exemption.

Respondent noted a letter was sent to Appellant requesting information regarding the use of subject. As no response was received, Respondent denied subject's agricultural exemption.

Respondent also pointed out the exemption application filed by Appellant was dated June 24, 2007, which was one day prior to the lease agreement with Mr. Hardy. This fact indicated to Respondent that subject did not qualify for exemption.

Idaho Code mandates all property must be valued on January 1 of the applicable tax year, or January 1, 2007 in this case. Idaho Code § 63-205. The issue here is subject's use on

January 1, 2007.

Appellant signed a lease agreement granting grazing rights to a third party, on June 25, 2007. Also compelling are Appellant's receipts and testimony that a fence was not built until sometime after July 2, 2007. The fence was built with the stated purpose of keeping the cattle contained on the subject property. It is clear from the evidence submitted by both parties that subject was not being grazed as of the applicable lien date and thus does not qualify for exemption under Idaho Code § 63-604.

Appellant alternatively argued if subject does not qualify for exemption, the assessed value was too high. This position was based on easements that cross subject, as well as, a steep hill that is on the property. Appellant contended these factors rendered those particular portions of subject unbuildable. As such, it was reasoned subject's value should be lowered.

Idaho Code provides all property not specifically exempted by statute must be assessed at market value for the purposes of taxation. Idaho Code § 63-601.

The burden is on the taxpayer to show by a preponderance of the evidence the assessment is erroneous. Idaho Code § 63-511. While Respondent did not dispute Appellant's claims that certain parts of subject were unbuildable, Appellant failed to indicate how much reduction in value would be proper. In other words, Appellant did not state a value claim or otherwise support a reduction in subject's value. Accordingly, Appellant did not meet the requisite burden of proof concerning subject's market value.

For the reasons outlined above, the decision of the Custer County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the

Custer County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED April 2, 2008